

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jeffrey Pennington,)	C/A No. 3:12-1509-JFA-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Kershaw County, South Carolina; State of South)	
Carolina; Kershaw County Detention Center;)	
Pennsylvania Department of Transportation; Lt.)	
Myers; Farrell Drakeford; John Does 1–10;)	
Jackson; Lawson, McLeod; C.O. Alston; and R.)	
Eugene Hartis,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Jeffrey Pennington, brings this action pursuant to 42 U.S.C. § 1983¹ claiming that he was falsely accused of traffic offenses in Kershaw County, South Carolina on April 19, 2012. He seeks compensatory damages and injunctive relief.

The Magistrate Judge assigned to this action² has prepared a Report and Recommendation and opines that defendants Kershaw County, South Carolina; State of South Carolina; Kershaw County Detention Center; Pennsylvania Department of Transportation; Darrell Drakeford; and R. Eugene Hartis should be summarily dismissed from this action. The Magistrate Judge also recommends dismissal of the plaintiff's claim

¹ The plaintiff has filed this action *in forma pauperis* under 28 U.S.C. § 1915.

² The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

regarding violation of copyrighted material. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

After the Report and Recommendation was filed in this action, the plaintiff filed an interlocutory appeal of the Magistrate Judge's recommendation that certain defendants be dismissed from this action. The Fourth Circuit Court of Appeals dismissed the interlocutory appeal and the mandate was issued on April 19, 2013.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on August 3, 2012. The plaintiff filed objections to the Report wherein he wholly disagrees with the Magistrate Judge's findings. The plaintiff contends that the defendants have no immunity and that all of the defendants violated his constitutional rights under color of law. The court finds these objections merely duplicative of the claims made in his complaint and accordingly, the objections are overruled.

As the Magistrate Judge properly suggests, and this court agrees, defendants Kershaw County, South Carolina; State of South Carolina; Kershaw County Detention Center; Pennsylvania Department of Transportation should be summarily dismissed because they are protected by the Eleventh Amendment which bars suit by citizens against non-consenting states brought either in state or federal court. Moreover, defendant Kershaw County Detention Center is also subject to summary dismissal because it is not a proper defendant under 42 U.S.C. § 1983.

The Magistrate Judge further opines that defendants Darrell Drakeford and R. Eugene Harris, as state magistrate court judges, have absolute immunity from suit and are entitled to summary dismissal from this action as well. The undersigned agrees.

After a careful review of the record, the applicable law, the Report and Recommendation, and the objections thereto, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, defendants Kershaw County, South Carolina; State of South Carolina; Kershaw County Detention Center; Pennsylvania Department of Transportation; Darrell Drakeford; and R. Eugene Harris are summarily dismissed from this action.

As the Magistrate Judge has authorized service of the complaint on the remaining defendants, this matter shall be returned to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

Joseph F. Anderson, Jr.
United States District Judge

June 4, 2013
Columbia, South Carolina